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In felony cases less than capital, the defendant has the same right to be present as in capital ones. *State v. Bray*, 67 N. C. 283; 1 BISHOP, NEW CRIM. PRO., § 272. But, by the great weight of authority, the defendant may waive his right to be present at the rendition of the verdict. *State v. Way*, 76 Kan. 928, 93 Pac. 159, 14 L. R. A. (N. S.) 603; *Fight v. State*, 7 Ohio 180, 28 Am. Dec. 626; *State v. Gorman*, 113 Minn. 401, 129 N. W. 589; *State v. Kelly*, 97 N. C. 404, 2 S. E. 185, 2 Am. St. Rep. 299; *Robson v. State*, 83 Ga. 166, 9 S. E. 610. However, he must waive it, and the right can not be arbitrarily taken from him. *Finch v. State*, 53 Miss. 363; *Rose v. State*, 20 Ohio 31.

At common law, in all cases where the jury were not commanded to "look upon" the defendant, as in inferior misdemeanors, the presence of the accused was not necessary at the reception of the verdict. *King v. Ledgingham*, 1 Vent. 97; 1 CHITTY, CRIMINAL LAW 636; *State v. Shepard*, 10 Iowa 126. See *Sawyer v. Joiner*, 16 Vt. 498. By the weight of American authority the general rule seems to be that the defendant has the same right to be present at the rendition of the verdict in misdemeanor cases as in felony cases not capital. At least, he must waive the right, expressly or impliedly, for the verdict to be validly rendered in his absence. *State v. Bland*, 91 Kan. 160, 136 Pac. 947; *Jackson v. State*, 49 N. J. L. 252, 9 Atl. 740. See *Wilkerson v. State*, 14 Ga. App. 475, 81 S. E. 395; *United States v. Loughery*, Fed. Cas. 15,631; *State v. Wamire*, 16 Ind. 357. But the court cannot arbitrarily deprive him of this right. *Lyon v. State*, 7 Ga. App. 50, 66 S. E. 149. See *Corbin v. State*, 99 Miss. 486, 55 South. 43. Nor can his counsel waive the right for him. *Lyon v. State*, *supra*.

FEDERAL COURTS—REMOVAL OF CAUSES—ALLEGATIONS OF DEVICES TO PREVENT JURISDICTION.—The plaintiff was injured while in the employ of the defendant. In a suit for personal injury, alleged to be due to the defendant's negligence in not providing a reasonably safe place for him to work in, the plaintiff joined, as co-defendant with the non-resident corporation, the foreman of the gang of men in which he was employed, such foreman being a resident. The non-resident corporation petitioned for removal of the case to the federal court, alleging generally that it was a non-resident and that the foreman was fraudulently joined as a defendant to prevent removal. *Held*, the petition is denied, on the ground that it is not sufficient to charge generally or by indefinite averments that the joinder was intended to be in fraud of the jurisdiction. *Hollisfield v. Southern Bell Telephone & Telegraph Co.* (N. C.), 90 S. E. 996. See NOTES, p. 579.

HUSBAND AND WIFE—DUTY TO SUPPORT—EFFECT OF CONTRACT.—The plaintiff agreed to work on the deceased's farm for a yearly wage. After working on the farm for several years, he married the deceased; but made no post nuptial agreement with her as to his wages. He continued to work on the farm after his marriage and no wages were paid him. After his wife's death, he sued the estate for the wages alleged to be due him on the basis of the ante nuptial agreement. *Held*, the

plaintiff cannot recover. *In re Simonson's Estate* (Wis.), 160 N. W. 1040.

Ante nuptial contracts will not be allowed to vary the personal duties and obligations imposed on the parties by the marriage contract. *Hair v. Hair*, 10 Rich. (S. C.) 163. See *Marshak v. Marshak*, 115 Ark. 51, 170 S. W. 567, L. R. A. 1915E, 161. Public policy requires that society be protected, as far as possible, from the burden of supporting those of its members who are not ordinarily fitted to be wage earners but perform most important services for society. *Ryan v. Dockery*, 134 Wis. 431, 114 N. W. 820, 126 Am. St. Rep. 1025. Therefore, a husband cannot recover upon an ante nuptial contract by which his wife agrees to support him during their married life. *Ryan v. Dockery*, *supra*. As the duty of support is created by the marriage relation and is not dependent on the inadequacy of the wife's means of support, it is not changed by the fact that she is wealthy; nor do statutes enlarging the property rights and liabilities of a married woman effect the husband's duty in this respect. *Ott v. Hentall*, 70 N. H. 271, 40 Atl. 80, 51 L. R. A. 226. Obviously, marriage settlements which are intended primarily to insure the support of the wife and children are not included within this prohibition and are valid. See *Isaacs v. Isaacs*, 71 Neb. 537, 99 N. W. 268.

There is no rule of law, nor of public policy, which countenances any attempt on the part of the husband to shirk his legal duty of supporting his wife and children and impose that duty upon the wife. *Corcoran v. Corcoran*, 119 Ind. 138, 21 N. E. 468, 4 L. R. A. 782. A contract by which the wife agrees, for a valuable consideration, to release her husband from the duty of supporting her is void. *Silverman v. Silverman*, 140 Mass. 560, 5 N. E. 639. And, both on the ground of public policy and on the ground that such agreements would cause dissensions between the parties, their common law disability to contract with each other is not affected in this respect by the Married Women's Acts. See *Barnett v. Harshbarger*, 105 Ind. 410, 5 N. E. 718; *Corcoran v. Corcoran*, *supra*. An insolvent husband may, however, devote his time and energy to carrying on his wife's business without giving his creditors any rights to the profits of the business which were created by his labor. *Abbey v. Deyo*, 44 N. Y. 343. Where statutes have removed the common law disabilities of the parties to contract with each other, such contracts will be enforced, but only where they are supported by the clearest and most satisfactory equity. See *Corcoran v. Corcoran*, *supra*; LONG, DOMESTIC RELATIONS, § 155. Thus, a wife may hire her husband, giving him his board and clothing in return for the services he renders her. *Kutcher v. Williams*, 40 N. J. Eq. 436, 3 Atl. 357.

In the principal case the plaintiff sued for wages alleged to be due him on account of an ante nuptial contract, but the duty of support resulting from the marriage relation would seem to have abrogated that contract.

LANDLORD AND TENANT—CONTRACT TO REPAIR—COMMON STAIRWAY.—The owner of a building who occupied the ground floor leased the second